

**ADOPTION OF AN AMENDMENT TO CHAPTER 112
(ZONING) OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Monday, May 1, 2006, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA:**

Amend Chapter 112 (Zoning Ordinance), as follows:

Amend Article 8, Special Permits, Part 9, Group 9 Uses Requiring Special Regulation, as follows:

- **Amend Sect. 8-901, Group 9 Special Permit Uses, by adding a new Par. 20 to read as follows:**

20. Modification of minimum yard requirements for certain existing structures and uses.

- **Add a new Sect. 8-921, Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses, to read as follows:**

8-921 Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses

The BZA may approve, only in conjunction with the approval of a special permit for another use, a modification of any yard requirement for an existing structure or use, including but not limited to principal and accessory structures and off-street parking spaces, but only in accordance with the following:

1. It shall be demonstrated that the existing structure or use complied with the minimum required yards in effect when the use was established and that the yards have not been reduced to less than the yards required by this Ordinance since the effective date of this Ordinance, except by condemnation or by acquisition for public purposes by any governmental agency.
2. The BZA may impose such conditions as it deems necessary, to include landscaping and screening, to minimize the impact of the existing structure or use on adjacent properties.

Amend Article 9, Special Exceptions, Part 6, Category 6 Miscellaneous Provisions Requiring Board of Supervisors' Approval, as follows:

- **Amend Sect. 9-601, Category 6 Special Exception Uses, by adding a new Par. 22 to read as follows:**

Category 6 special exceptions consist of those miscellaneous provisions set forth in various Articles of this Ordinance, which require special approval or authorization from the Board.

22. Modification of minimum yard requirements for certain existing structures and uses.

- **Add a new Sect. 9-625, Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses, to read as follows**

9-625 Provisions for Modification of Minimum Yard Requirements for Certain Existing Structures and Uses

The Board may approve, only in conjunction with the approval of a rezoning or special exception for another use, a modification of any yard requirement for an existing structure or use, including but not limited to principal and accessory structures and off-street parking spaces, but only in accordance with the following:

1. It shall be demonstrated that the existing structure or use complied with the minimum required yards in effect when the use was established and that the yards have not been reduced to less than the yards required by this Ordinance since the effective date of this Ordinance, except by condemnation or by acquisition for public purposes by any governmental agency.
2. The Board may impose such conditions as it deems necessary, to include landscaping and screening, to minimize the impact of the existing structure or use on adjacent properties.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structures, as follows:

- Amend Sect. 10-103, Use Limitations, by revising Par. 4 to read as follows:

4. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be qualified by Sect. 2-506. For the purposes of determining height, unless otherwise specified in Sect. 10-104 below, the height of an accessory structure shall be measured from the highest point of the structure to the lowest point of grade adjacent to the structure.

- Amend Sect. 10-104, Location Regulations, by adding a new Par. 3H, and amending Paragraphs 10A and 12A, all to read as follows:

3. Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.
 - H. In addition, the Board may approve in conjunction with a proffered rezoning or a special exception for another use, or the BZA in conjunction with a special permit for another use, an increase in fence and/or wall height and/or modification to the corresponding location regulations set forth above, and/or an increase in gate and/or gate post height and/or modification to the corresponding location regulations set forth in Par. 4 of Sect. 10-104 below in accordance with the following:
 - (1) In order to show the visual impact of the fence, wall, gate and/or gate post on nearby properties, the height, location, color and materials of the proposed

fence, wall, gate and/or gate post and any associated berming or landscaping shall be submitted with the application.

- (2) The Board/BZA shall determine that the proposed fence, wall, gate and/or gate post is in character with the existing development on the site, is harmonious with the surrounding development, and will not adversely impact the use and/or enjoyment of any nearby property. The Board/BZA may impose such conditions as it deems necessary to satisfy this criteria.
10. The following regulations shall apply to the location of freestanding accessory storage structures:
 - A. For purposes of determining height, the height of an accessory storage structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.
12. The following regulations shall apply to the location of all freestanding structures or uses except those specifically set forth in other paragraphs of this Section:
 - A. For purposes of determining height, the height of an accessory structure shall be measured in accordance with Par. 4 of Sect. 10-103 above.

Amend Article 11, Off-Street Parking and Loading, Private Streets, Part 1, Off-Street Parking, Sect. 11-102, General Provisions, by revising the introductory paragraph to Par. 8 to read as follows:

8. Except as may be qualified elsewhere in this Ordinance, off-street parking spaces that are located on the ground and are open to the sky may be located in any required yard but not closer than ten (10) feet to any front lot line, unless modified by the Board or BZA pursuant to Part 2 of Article 13; except that this ten (10) foot minimum distance shall not be required between parking spaces provided for single family attached dwellings in parking bays and the front lot lines of single family detached dwelling unit lots and shall not apply to parking spaces provided for and on the same lot with single family detached or attached dwellings, provided such space shall not encroach into any sidewalk or trail.
For single family detached dwellings on lots containing 36,000 square feet or less in the R-1, R-2, R-3 and R-4 Districts, all parking for vehicles or trailers in a front yard shall be on a surfaced area, provided, however, that this shall not be deemed to preclude temporary parking on an unsurfaced area in a front yard for a period not to exceed forty-eight (48) hours for loading, unloading, cleaning or repair of vehicles or trailers. In addition, in the R-1 and R-2 Districts, no more than twenty-five (25) percent of any front yard and in the R-3 and R-4 Districts, no more than thirty (30) percent of any front yard shall be surfaced area for a driveway or vehicle/trailer parking area; provided, however, that these limitations may be exceeded for a surfaced area that is:

Amend Article 13, Landscaping and Screening, Part 2, Parking Lot Landscaping, Sect. 13-202, Peripheral Parking Lot Landscaping, by revising Par. 3 to read as follows:

If any parking lot contains twenty (20) or more spaces and transitional screening is not required by Sections 301 and 302 below, then peripheral parking lot landscaping shall be required as follows:

3. The Board, in conjunction with the approval of a rezoning or special exception, and the BZA, in conjunction with the approval of a special permit, may approve a waiver or modification of the requirements of this Section and the requirement to provide a ten (10) foot minimum distance between a front lot line and an off-street parking space set forth in Par. 8 of Sect. 11-102. Such waiver or modification may be approved:
 - A. For an interim use of a specified duration, and/or where deemed appropriate due to the location, size, surrounding area or configuration of the parking lot; and
 - B. Where such waiver or modification will not have any deleterious effect on the existing or planned development of adjacent properties.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by amending the Group 9 and Category 6 entries in Par. 1 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

	Filing Fee
1. Application for a variance, appeal, special permit or special exception:	
Application for a:	
Group 9 special permit	
Open air produce stand	\$ 585
Accessory dwelling unit	\$ 140
Modification to minimum yard requirements for R-C lots	\$ 60
Modification to the limitations on the keeping of animals; error in building location; modification to permitted extension regulations; modification of minimum yard requirements for certain existing structures and uses; noise barriers on a single residential lot	\$ 295
All other uses	\$ 5295
Application for a:	
Category 6 special exception	

Reduction of yard requirements for the reconstruction of certain single family detached dwellings that are destroyed by casualty	\$ 0
Modification of minimum yard requirements for certain existing structures and uses	\$ 295
All other uses	\$ 5295

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by revising the definition of Grade to read as follows:

GRADE: A reference plane representing the average of finished ground level adjoining a building at all exterior walls. For the purposes of this Ordinance, the determination of grade associated with the height of an accessory structure shall be deemed the lowest point of grade adjacent to the structure.

This amendment shall become effective on May 2, 2006 at 12:01 a.m.

GIVEN under my hand this 1st day of May, 2006.

NANCY VEHR
Clerk to the Board of Supervisors